selling intoxicating liquor to any minor, or suffering the same to be done, and section 20, providing that any sale made to any minor or on Sunday by any agent or other person acting for any retailer, when considered together and made to harmonize, proof of a sale by an agent does not make a liquor dealer criminally liable when the sale is made at his place of business by one assuming to act as his agent, where he shows, either that such person was not his agent, or that the sale was made in violation of his orders. Ramsey, J., *dissenting.*

The defense may be that the servant made the unlawful sale unauthorized, giving rise to a presumption of innocence even in cases of illegal liquor selling. *Commonwealth v. Briant,* 142 Mass. 463. So where the defendant kept a general store and in his absence the clerk sold liquor, the proprietor was not held liable. *Grosch v. City of Centralia,* 6 Ill. App. 107. If against the express instructions of the employer, the latter is not to be held. *Lathrope v. State,* 51 Ind. 192. But in some jurisdictions where the clerk sells to minors, there is no defense even though the defendant gave instructions against it. *Mogler v. State,* 47 Ark. 109. The employer is not liable for sales made on Sunday without proof of authority express or implied, if the agent is employed only to work on week days. *State v. Burke,* 15 R. I. 324.

MASTER AND SERVANT—DEATH OF SERVANT—"FELLOW SERVANTS"—SECTION HAND WITH ENGINEER.—DEGONIA V. ST. LOUIS, I. M. & S. RY., 123 S. W. 807 (MO.).—*Held,* that a section hand working on a railroad track is not a fellow servant of the engineer of a passenger train by which he was killed. Valliant, Lamm, J. J., *dissenting.*

In determining who are fellow servants it is generally held that where a servant is employed in a department of a general service which is separate and distinct from that of the servant or servants whose negligence caused injury, the fellow servant rule does not apply and the master is liable. *Sullivan v. Mo. Pac. Ry.,* 97 Mo. 113. However, in *H. & T. C. Ry. Co. v. Rider,* 62 Tex. 267, it was held where several serve the same employer, work under the same control, deriving their authority and compensation from the same common source, they are fellow servants, though their labor may be performed in different departments of the same common service. One servant can not maintain an action against the common master for injury caused by carelessness or negligence of another engaged in same service, where competent servants have been employed. *Ill. Cent. Ry. v. Cox,* 21 Ill. 29. But the fact that the negligence of a fellow servant concurs with the negligence of the master in causing the injury to the servant does not exempt the master from liability for his neglect. *Merril v. Oregon Short Line Ry. Co.,* 29 Utah, 264. In a similar case, *Connally v. Minneapolis Eastern Ry. Co.,* 38 Minn. 80, it was held that a section hand was a fellow servant of an engineer and that a railway company was not liable for negligence of engineer or brakeman of the train.

MUNICIPAL CORPORATIONS—DEFECTS IN STREET—REASONABLY SAFE FOR PUBLIC TRAVEL.—NORTHRUP V. CITY OF PONTIAC, 123 N. W. REP. 1107

(MICH.)—*Held,* that a grating projecting only two inches or less above a sidewalk is not as a matter of law an obstruction which will render the sidewalk not reasonably safe for public travel.

A city is liable not only for accidents occasioned by negligently constructing sidewalks, but also for negligently permitting the defects to continue. *City of Atchison v. King,* 9 Kas. 550; 2 *Dill. Mun. Corps.,* Sect. 1025. Thus where a defect in a street had been allowed to continue for ten months, it was held that the city was liable for an injury caused thereby. *Lyon v. City of Logansport,* 9 Ind. App. 21. But it has been held that when the defect has continued for several years prior to a complaint, danger was not reasonably to be anticipated and the city was freed from the charge of negligence. *Beltz v. City of Yonkers,* 148 N. Y. 67. As for the manner in which the defect exists in the street, it makes no difference whether the defect is a part of, or attached to, the sidewalk or not. *Pittenger v. Town of Hamilton,* 85 Wis. 356. For it is well settled that if the defect is so near the traveled portion of the walk as to endanger travel thereon, the town is liable. *Fitzgerald v. Berlin,* 64 Wis. 203. But in any case the plaintiff must have used due care in order to recover. *Glantz v. City of South Bend,* 106 Ind. 305; 2 *Dill. Mun. Corps.,* Sects. 1020. And such due care has not been used and the plaintiff cannot recover, if, in broad daylight, he chooses to cross a street where there is a projection which has necessarily been put there, when he could just as well have used another part of the street for his purpose. *Raymond v. City of Lowell,* 60 Mass. 524.

MUNICIPAL CORPORATIONS—LIABILITY FOR NEGLIGENCE—RESPONDEAT SUPERIOR.—SCHWALK'S ADM'R. V. CITY OF LOUISVILLE, 122 S. W. REP. 860 (KY.).—*Held,* that persons employed in a city hall in managing and conducting the affairs of the municipality are public officers, charged with the performance of public duties; and the doctrine of *respondeat superior* does not apply to such employment. Nunn, C. J., *dissenting.*

The distinction between public and private powers conferred upon municipal corporations seems to be that when the power conferred has relation to public purposes and is for the public good, it is to be classified as governmental in its nature and appertains to the corporation in its political character. But when it relates to the accomplishment of private corporate purposes, in which the public is only incidentally concerned, it is private in its nature and the corporation is regarded as a legal individual. In the former case, the corporation is exempt from all liability, whether for non-use or misuse; while in the latter case, it may be held to that degree of responsibility which would attach to an ordinary private corporation. *Springfield F. & M. Ins. Co. v. Keesville,* 148 N. J. 46. Therefore, in the absence of a statutory provision, a municipal corporation, acting in furtherance of public purposes and for the public good, is not liable for damages caused by the torts of its officers. *Parks v. City Council of Greenville,* 44 S. C. 168. For the officers of such corporation are *quasi* civil officers of the government, and are personally liable for malfeasance or non-feasance in office; but the corporation is responsible